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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,994

12/21/2004

Michael Zaiser

LO29-020

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21567 7590 03/03/2009  
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EXAMINER

RACHUBA, MAURINA T

ART UNIT

PAPER NUMBER

3727

MAIL DATE

DELIVERY MODE

03/03/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/518,994	<b>Applicant(s)</b> ZAISER, MICHAEL	
	<b>Examiner</b> Maurina Rachuba	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-22 and 24-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-22 and 24-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant has successfully shown that Mandler does not teach an adaptor as claimed, and as the examiner interpreted in the previous Office action. This action is made non-final to allow applicant fair opportunity to respond.

### ***Claim Rejections - 35 USC § 112***

2. The examiner agrees that the adapter contacts the connecting material between the lens and the first holder, as shown in figure 7. Applicant should consider amending the specification to provide a description to support this limitation.

### ***Claim Rejections - 35 USC § 102***

3. Applicant has overcome the rejection under 35 USC 102.

### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Applicant has overcome the previous rejection under 35 USC 103.

6. Claims 16-22, 24-39, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morland et al, 4,759,154 in view of Allen et al, 2,879,632. '154 discloses a method and apparatus for aligning a lens, comprising providing a lens comprising a machined first side and a second side (figures 4 and 5), the second side secured to a first holder **14** by connecting material, (adhesive, see column 2, lines 32-35) positioning the first holder relative to an adapter part **3**, and aligning the lens relative to the second holder **2**; connecting the lens to the second holder, inserting the holder in

a retaining device and removing the first holder, the connecting material and adapter from the lens; removing the first holder together with the adapter. The adapter part comprises an alignment reference **13**, extending perpendicular to an optical axis of the lens, where the positioning comprises aligning the first holder relative to the reference. As shown in figures 1 and 4, the adapter is in contact with the connecting material (the adhesive). '154 does not disclose the adapter having markings, ('154 uses the freedom of movement of table **3** to align the lens with the block as the block is lowered toward the lens and adapter) that the positioning of the first holder comprises using a collet chuck, or that the lens is a spectacle lens, as opposed to a contact lens, or that the lens is an organic progressive lens. In a lens blocking device, '632 teaches using an adapter part for aligning spectacle lenses, the adapter part configured to position a first holder **51** relative the adapter part; and markings **126** configured to align said spectacle lenses relative other structures. Note jaws **54**, defined by '632 as collet jaws and part of a chuck, which are in physical contact with the holder. Because both references teach a method and apparatus for holding a lens block for processing a lens, it would have been obvious to one of ordinary skill to have provided the adapter of '154 with the collet chuck and markings of '632, for the predictable result of accurately aligning the lens with the second holder, by controlling angular position of the lens relative to the other structure. Regarding the workpiece being a spectacle lens, or an organic progressive lens, the examiner takes Official notice that such lenses exist, and are machined using lens blocks. It would have been obvious to have used the method of '154 with such a known lens, for the predictable result of machining the lens.

7. Claims 40, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morland et al, 4,759,154 in view of Allen et al, 2,879,632 as applied to claims 16 and 36 above, and further in view of Parish, Jr. et al, 5,919,563. '154 as modified by '632 does not teach providing a protective layer, or spraying a coating on the second side of the lens. In a similar apparatus, 563, column 2, lines 15-29, teaches that it is old and well known to provide spectacle lenses with protective coatings, in the form of a plastic film or sprayed on coating, to prevent damage to the surfaces of the lens during blocking and/or processing. It would have been obvious to one of ordinary skill in the art to have provided '154 as modified by '632 with the protective coating taught by '563, for the predictable result of protecting the lens surface.

8. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morland et al, 4,759,154 in view of Allen et al, 2,879,632 as applied to claims 16 and 36 above, and further in view of Lipman, 5,451,281. '154 as modified by '632 does not teach providing a protective layer, or spraying a coating on the second side of the lens. In a similar apparatus, 281, column 1, lines 43-56, teaches that it is old and well known to provide spectacle lenses with protective coatings, in the form of a plastic film, to prevent damage to the surfaces of the lens during blocking and/or processing. It would have been obvious to one of ordinary skill in the art to have provided '154 as modified by '632 with the protective coating taught by '281, for the predictable result of protecting the lens surface.

***Response to Arguments***

9. Applicant's arguments with respect to claims 16-22, and 24-37 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that Allen does not disclose aligning the lens relative to a second holder. This is correct, however, Morland clearly teaches aligning a lens with a second holder. Allen is relied upon to teach the collet chuck, and markings opposite the chuck, to better hold and align the lens relative to another structure, in Allen's case a tool. Applicant further argues that the examiner has not provided articulated reasoning as to why one of ordinary skill in the art would have considered it obvious to have provided Morland with the markings of Allen. The examiner disagrees. Yes, Allen teaches using the markings to provide a "prism " setting for the lens during machining of the lens. The examiner considers that to be aligning the lens, in that the lens must be moved to match a particular desired setting. That the alignment is relative to another structure, and not necessarily a second holder, is moot, as Morland clearly teaches aligning a lens in an adapter relative to a second holder. Applicant has provided no reasoning as to why setting the prism of the lens is not aligning the lens, but has merely concluded that it is not.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maurina Rachuba whose telephone number is 571 272 4493. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571 272 4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Rachuba/  
Primary Examiner, Art Unit 3727